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Measures to eliminate international terrorism

Measures to eliminate international terrorism

Report of the Working Group

Chairman: Mr. Rohan **Perera** (Sri Lanka)

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I. Introduction

1. The General Assembly, in its resolution 54/110 of 9 December 1999, inter alia, decided that the Ad Hoc Committee established by resolution 51/210 of 17 December 1996 should meet from 14 to 18 February 2000, devoting appropriate time to the consideration of the outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism, and that it should address the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations. It further decided that the work should continue, including beginning consideration with a view to the elaboration of a comprehensive convention on international terrorism within a comprehensive legal framework of conventions dealing with international terrorism, during the fifty-fifth session of the General Assembly from 25 September to 6 October 2000, within the framework of a working group of the Sixth Committee.

2. Accordingly, the Sixth Committee, at its 2nd meeting, on 25 September 2000, established such a Working Group and elected Mr. Rohan Perera (Sri Lanka) as its Chairman.

3. The Sixth Committee also decided, at its 2nd meeting, to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency (IAEA). At its 1st meeting, on 25 September 2000, the Working Group decided to invite the representative of the International Committee of the Red Cross (ICRC) to participate in its discussions as an observer. At its 5th meeting, on 27 September 2000, the Working Group extended a similar invitation to the representatives of the Commonwealth Secretariat, the European Union (EU), the League of Arab States and the Organization of African Unity (OAU).

4. The Working Group held nine meetings, from 25 September to 6 October 2000.

5. The Working Group had before it the report of the Working Group of the Sixth Committee (A/C.6/53/L.4) containing a revised text of the draft convention on the suppression of acts of nuclear terrorism prepared by the Friends of the Chairman (ibid., annex I); the report of the Ad Hoc Committee on the work of its fourth session;[1] as well as the working document submitted by India entitled "Draft comprehensive convention on international terrorism" (A/C.6/55/1).

6. The Working Group also had before it oral and written proposals submitted during its meetings. The texts of the written proposals are contained in annex III to the present report.

7. The report was considered and adopted by the Working Group at its 9th meeting, held on 6 October 2000.

II. Proceedings of the Working Group

A. Elaboration of the draft international convention for the suppression of acts of nuclear terrorism

8. At its 1st meeting, on 25 September 2000, the Chairman of the Working Group observed that the coordinator for the draft convention, Cate Steains (Australia), had continued to conduct consultations, during the inter-sessional period, on the outstanding issues and that further, broader consultations might be required in the pursuit of a solution that would lead to the adoption of the convention. He also indicated that he would give Ms. Steains the necessary flexibility to continue such consultations during the session of the Working Group. He further pointed out that the completion of the work on the draft convention depended, primarily, on the political will to reach a compromise.

B. Question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations

9. At the 1st meeting of the Working Group, the Chairman drew the attention of the delegates to the relevant parts of the report of the Ad Hoc Committee. He informed the meeting that he had not received any additional information on the matter and suggested that it might be useful to continue consultations so that the Working Group might have some concrete suggestions on how to proceed further. He invited all interested delegations to continue their efforts and to approach him with any proposals.

C. Question of the elaboration of a comprehensive convention on international terrorism within a comprehensive legal framework of conventions dealing with international terrorism

10. At the 1st meeting of the Working Group, the delegation of India introduced the working document entitled "Draft comprehensive convention on international terrorism" (A/C.6/55/1), which was a revised version of the text previously presented by India at the fifty-first session of the General Assembly (A/C.6/51/6).

11. The Working Group commenced its work on the elaboration of a comprehensive convention on international terrorism on the basis of the draft submitted by India. Discussions were held both in the Working Group and in informal consultations. The Working Group conducted a first reading of articles 1 to 22 and the preamble. Subsequently, the delegation of India prepared revised texts of articles 1, 3, 6, 8 and 11 (A/C.6/55/WG.1/CRP.8 and 17) and an informal revised text of article 2 (A/C.6/55/WG.1/CRP. 35). Following the informal consultations, based on the above revised texts and other written and oral submissions, the delegation of India prepared a further revised text of articles 1, 3, 6, 8 and 11 and another informal revised text of article 2, as contained, respectively, in annexes I.A and I.B to the present report.

12. At the 8th meeting of the Working Group, on 5 October 2000, the coordinators of the informal consultations on articles 2, 3 and 6, and 8 and 11 presented oral reports to the Working Group.

13. Annex IV to the present report contains an informal summary of the general discussion in the Working Group prepared by the Chairman for reference purposes only and not as a record of the discussion.

III. Recommendations of the Working Group

14. At its 9th meeting, on 6 October 2000, the Working Group decided to refer the consideration of the present report to the Sixth Committee. The Working Group decided, bearing in mind General Assembly resolution 54/110, to recommend to the Sixth Committee that the work continue on the elaboration of a draft comprehensive convention on international terrorism, building upon the work accomplished during the meetings of the Working Group.

15. Also at its 9th meeting, the Working Group decided to recommend that the coordinator for the draft international convention for the suppression of acts of nuclear terrorism should continue consultations on the draft convention and report to the Sixth Committee on those consultations.

Notes

[1] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 37* (A/55/37).

Annex I

A. Revised text of articles 1, 3, 6, 8 and 11, prepared by India

Article 1

For the purposes of this Convention:

1. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security, and persons acting in support of those armed forces who are under their formal command, control and responsibility.

3. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewerage, energy, fuel, banking, communications, telecommunications and information networks.

4. "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

5. "Public transportation system" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 6, paragraph 1, or article 6, paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles 8 and 12 to 16 shall, as appropriate, apply in those cases.

Article 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

2. A State may also establish its jurisdiction over any such offence when:

(a) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(b) The offence is committed wholly or partially outside its territory, if the effects of the conduct or its intended effects constitute or result, within its territory, in the commission of an offence set forth in article 2;

(c) The offence is committed against a national of that State; or

(d) The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(e) The offence is committed in an attempt to compel that State to do or to abstain from doing any act; or

(f) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established under its domestic law in accordance with paragraph 2 of the present article. Should any change take place the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 2 in cases where the alleged offender is present in its territory and where it does not extradite such a person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. Without prejudice to the norms of general international law, this Convention does not exclude any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 8

1. States Parties shall cooperate in the prevention of the offences set forth in article 2, by taking all practicable measures, including, if necessary and where appropriate, adapting their domestic legislation, to prevent and counter preparations in their respective territories and areas under their jurisdiction for the commission, within or outside their territories and areas under their jurisdiction, of those offences including:

(i) measures to prohibit the establishment and operation of installations and training camps for the commission of offences set forth in article 2; and

(ii) measures to prohibit the illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the commission of offences set forth in article 2.

2. States Parties shall further cooperate in the prevention of the offences set forth in article 2 by exchanging accurate and verified information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences as set forth in article 2, in particular by:

(a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

(b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

(i) the identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;

(ii) the movement of funds relating to the commission of such offences.

3. States Parties may exchange information through the International Criminal Police Organization (Interpol).

Article 11

1. The State Party in whose territory the alleged offender is present shall, in cases to which article 6 applies, if it does not extradite the person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case, without undue delay, to its competent authorities for the purpose of prosecution through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

B. Informal revised text of article 2, prepared by India

Article 2

1. Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally, causes:

(a) Death or serious bodily injury to any person; or

(b) Serious damage to public or private property, a place of public use, a State or government facility, a public transportation system, or an infrastructure facility; or

(c) Damage to property, places, facilities, or systems referred to in paragraph 1 (b) of this article, resulting or likely to result in major economic loss;

when the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or abstain from doing any act.

2. Any person also commits an offence if that person threatens to commit an offence as set forth in paragraph 1 of this article.

3. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

4. Any person also commits an offence if that person:

(a) Participates as an accomplice in, including aiding, abetting or facilitating, the commission of an offence as set forth in paragraph 1, 2 or 3 of this article;

(b) Organizes, directs or instigates others to commit an offence as set forth in paragraph 1, 2 or 3 of this article; or

(c) Contributes to the commission of one or more offences as set forth in paragraphs 1, 2 or 3 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or

(ii) be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

Annex II

Working document submitted by India on the draft comprehensive convention on international terrorism

The States Parties to this Convention,

Recalling the existing international conventions relating to various aspects of the problem of international terrorism, in particular the Convention on Offences and Certain Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963; the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970; the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973; the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979; the Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980; the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988; the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988; the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988; the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991; the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997; the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999,

Recalling also General Assembly resolution 49/60 of 9 December 1994 and the Declaration on Measures to Eliminate International Terrorism annexed thereto,

Recalling further General Assembly resolution 51/20 of 17 December 1996 and the Declaration to supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed thereto,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms, which endanger or take innocent lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

Reaffirming their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize friendly relations among States and peoples and threaten the territorial integrity and security of States,

Recognizing that acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the undermining of human rights, fundamental freedoms and the democratic basis of society,

Recognizing also that the financing, planning and inciting of terrorist acts are also contrary to the purposes and principles of the United Nations, and that it is the duty of the States Parties to bring to justice those who have participated in such terrorist acts,

Convinced that the suppression of acts of international terrorism, including those which are committed or supported by States, directly or indirectly, is an essential element in the maintenance of international peace and security and the sovereignty and territorial integrity of States,

Realizing the need for a comprehensive convention on international terrorism,

Have resolved to take effective measures to prevent acts of terrorism and to ensure that perpetrators of terrorist acts do not escape prosecution and punishment by providing for their extradition or prosecution, and to that end have agreed as follows:

Article 1

For the purposes of this Convention:

1. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security, and persons acting in support of those armed forces who are under their formal command, control and responsibility.

3. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewerage, energy, fuel or communications, and banking services, telecommunications and information networks.

4. "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

5. "Public transportation system" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally, does an act intended to cause:

(a) Death or serious bodily injury to any person; or

(b) Serious damage to a State or government facility, a public transportation system, communication system or infrastructure facility with the intent to cause extensive destruction of such a place, facility or system, or where such destruction results or is likely to result in major economic loss;

when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or abstain from doing any act.

2. Any person also commits an offence if that person attempts to commit an offence or participates as an accomplice in an offence as set forth in paragraph 1.

3. Any person also commits an offence if that person:

(a) Organizes, directs or instigates others to commit an offence as set forth in paragraph 1 or 2; or

(b) Aids, abets, facilitates or counsels the commission of such an offence; or

(c) In any other way contributes to the commission of one or more offences referred to in paragraphs 1, 2 or 3 (a) by a group of persons acting with a common purpose; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group or be made in the knowledge of the intention of the group to commit the offence or offences concerned.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State and no other State has a basis under article 6, paragraph 1, or article 6, paragraph 2, to exercise jurisdiction, except that the provisions of articles 10 to 22 shall, as appropriate, apply in those cases.

Article 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of those offences.

Article 5

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

Article 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 2 in the following cases:

(a) When the offence is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State or is a person who has his or her habitual residence in its territory;

(c) When the offence is committed wholly or partially outside its territory, if the effects of the conduct or its intended effects constitute or result, within its territory, in the commission of an offence referred to in article 2.

2. A State may also establish its jurisdiction over any such offence when it is committed:

(a) By a stateless person whose habitual residence is in that State; or

(b) With respect to a national of that State; or

(c) Against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(d) In an attempt to compel that State to do or to abstain from doing any act; or

(e) On board a ship or aircraft which is operated by the Government of that State.

3. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 2 in cases where the alleged offender is present in its territory and where it does not extradite such person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

4. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

5. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 7

States Parties shall take appropriate measures, before granting asylum, for the purpose of ensuring that asylum is not granted to any person in respect of whom there are reasonable grounds indicating his involvement in any offence referred to in article 2.

Article 8

States Parties shall cooperate in the prevention of the offences set forth in article 2, particularly:

(a) By taking all practicable measures, including, if necessary, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission, by whomsoever and in whatever manner, of those offences within or outside their territories, including:

(i) Measures to prohibit in their territories the establishment and operation of installations and training camps for the commission, within or outside their territories, of offences referred to in article 2; and

(ii) Measures to prohibit the illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the commission, within or outside their territories, of offences referred to in article 2;

(b) By exchanging accurate and verified information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences as referred to in article 2.

Article 9

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence referred to in article 2. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 10

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence referred to in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 6, paragraph 1 (b), or 2 (b), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 6, paragraph 1 or 2, and if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 11

1. The State Party in whose territory the alleged offender is found shall, if it does not extradite the person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and that State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

Article 12

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present

and applicable provisions of international law, including international human rights law.

Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

3. States Parties which are not bound by a bilateral treaty or arrangement of mutual legal assistance may, at their discretion, apply the procedure set out in Annex II.

Article 14

None of the offences referred to in article 2 and the acts which constitute an offence within the scope of and as defined in one of the treaties listed in Annex I shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 15

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in Article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 16

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent; and

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

2. For the purposes of this article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he was transferred for the time spent in the custody of the State to which he was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with this article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 17

1. The offences referred to in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request from another State Party with which it has no extradition treaty, the requested State may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences referred to in article 2 as extraditable offences between themselves, subject to the conditions provided for by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 6, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

6. States Parties which, pursuant to paragraph 2 of this article, have agreed to consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2 may consider utilizing the procedures set out in Annex III.

Article 18

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international law, which are governed by that law, are not governed by this Convention, and the activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

Article 19

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 20

The States Parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 21

Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes of the Charter of the United Nations, international humanitarian law and other relevant conventions.

Article 22

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 23

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 24

1. This Convention is open for signature by all States from ... to ... at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 25

1. This Convention shall enter into force thirty days after twenty-two instruments of ratification, acceptance, approval or accession have been deposited with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 26

1. A State may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 27

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on ... 2000.

Annex I[1]
Exclusion of political offence

1. Convention on Offences and Certain Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963.
2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970.
3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.
4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.
5. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
6. Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980.
7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988.
8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.
10. Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991.
11. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.
12. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.

[1] Reference is made to this Annex in article 14.

Annex II[2]
Procedure for mutual legal assistance

1. States Parties shall afford one another, pursuant to this Annex, the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to criminal offences established in accordance with article 3.

2. Mutual legal assistance to be afforded in accordance with this Annex may be requested for any of the following purposes:

(a) Taking evidence or statements from persons;

(b) Effecting service of judicial documents;

(c) Executing searches and seizures;

(d) Examining objects and sites;

(e) Providing information and evidentiary items;

(f) Providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records;

(g) Identifying or tracing proceeds, property, instrumentalities or other things for evidentiary purposes.

3. States Parties may afford one another any other forms of mutual legal assistance allowed by the domestic law of the requested party.

4. Upon request, States Parties shall facilitate or encourage, to the extent consistent with their domestic law and practice, the presence or availability of persons, including persons in custody, who consent to assist in investigations or participate in proceedings.

5. A State shall not decline to render mutual legal assistance under this Annex on the ground of bank secrecy.

6. The provisions of this Annex shall not affect the obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual legal assistance in criminal matters.

7. The States Parties may apply, at their discretion, paragraphs 8 to 19 of this Annex to requests made pursuant to this Annex if they are not otherwise bound by any treaty of mutual legal assistance. If the States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 8 to 19 of this Annex in lieu thereof.

8. States Parties shall designate an authority or, when necessary, authorities, which shall have the responsibility and power to execute requests for mutual legal assistance or to transmit them to the competent authorities for execution. The authority or the authorities designated for this purpose shall be notified to the Secretary-General of the United Nations. Transmission of requests for mutual legal assistance and any communication related thereto shall be effected between the authorities designated by the States Parties; this requirement shall be without

[2] This Annex, which is referred to in article 13, is based on article 7 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

prejudice to the right of a State to require that such requests and communications be addressed to it through the diplomatic channel and, in urgent circumstances, where the States agree, through channels of the International Criminal Police Organization — Interpol, if possible.

9. Requests shall be made in writing in a language acceptable to the requested State. The language or languages acceptable to each State shall be notified to the Secretary-General of the United Nations. In urgent circumstances, and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

10. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or proceedings to which the request relates, and the name and the functions of the authority, conducting such investigation, prosecution or proceeding;

(c) A summary of the relevant facts, except in respect of requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure the requesting party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned;

(f) The purpose for which the evidence, information or action is sought.

11. The requested State may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

12. A request shall be executed in accordance with the domestic law of the requested State and, to the extent not contrary to the domestic law of the requested State and where possible, in accordance with the procedures specified in the request.

13. The requesting State shall not transmit or use information or evidence furnished by the requested State for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested State.

14. The requesting State may require that the requested State keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State.

15. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this Annex;

(b) If the requested State considers that execution of the request is likely to prejudice its sovereignty, security, public order or other essential interests;

(c) If the authorities of the requested State would be prohibited by its domestic law from carrying out the action requested with regard to any similar

offence, had it been subject to investigation, prosecution or proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State relating to mutual legal assistance for the request to be granted.

16. Any assistance under this Annex may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

17. Reasons shall be given for any refusal of mutual legal assistance.

18. The requested State may postpone mutual legal assistance on the ground that it interferes with an ongoing investigation, prosecution or proceeding. In such a case, the requested State shall consult with the requesting State to determine if the assistance can still be given subject to such terms and conditions as the requested State deems necessary.

19. A witness, expert or other person who consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his departure from the territory of the requested State. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days, or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory or, having left it, has returned of his or her own free will.

20. The ordinary costs of executing a request shall be borne by the requested State, unless otherwise agreed by the States concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

21. The States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this Annex.

Annex III[3]
Extradition procedure

1. The offences referred to in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. The States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. The States Parties that do not make extradition conditional on the existence of a treaty shall recognize the offences referred to in article 2 as extraditable offences between themselves subject to the conditions provided for by the law of the requested State.

[3] Reference is made to this Annex in article 17.

3. The offences referred to in article 2 shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the requested States Parties.

4. The States Parties may, at their discretion, apply paragraphs 5 to 18 of this Annex to requests for extradition in respect of offences referred to in article 2 if they are not bound by a treaty of extradition. If these States are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States agree to apply paragraphs 5 to 18 of this Annex in lieu thereof.

5. States Parties shall designate an authority, or when necessary, authorities, which shall have the responsibility and power to execute requests for extradition or to transmit them to the competent authorities for execution. The authority or the authorities designated for this purpose shall be notified to the Secretary-General of the United Nations. Transmission of requests for extradition and any communication related thereto shall be effected between the authorities designated by the States Parties; this requirement shall be without prejudice to the right of a State to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through channels of the International Criminal Police Organization — Interpol, if possible.

6. Requests shall be made in writing in a language acceptable to the requested State. In urgent circumstances, and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

7. A request for extradition shall contain:

(a) The identity of the authority making the request;

(b) As accurate a description as possible of the person sought, together with any other information which would help to establish the identity, location and nationality of the person concerned;

(c) A summary of the facts of the offence for which extradition is requested; and

(d) The text, if any, of the law defining that offence and prescribing the maximum punishment for that offence.

8. If the request relates to a person already convicted and sentenced, it shall also be accompanied by:

(a) A certificate of the conviction and sentence; and

(b) A statement that the person is not entitled to question the conviction and sentence and showing how much of the sentence has not been carried out.

9. If the requested State considers that the evidence produced or information supplied is not sufficient in order to enable a decision to be taken as to the request, additional evidence or information shall be submitted within such time as the requested State may require.

10. A request shall be executed in accordance with the domestic law of the requested State and, to the extent not contrary to the domestic law of the requested State and where possible, in accordance with the procedures specified in the request.

11. The requesting State shall not transmit or use information or evidence furnished by the requested State for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested State.

12. Any person who is returned to the territory of the requesting State under this Convention shall not be dealt with in the territory of the requesting State for or in respect of any offence committed before he was returned to that territory other than the offence in respect of which he was returned, any lesser offence disclosed by the facts proved for the purpose of securing his return other than an offence in relation to which an order for his return could not lawfully be made, or any other offence in respect of which the requested State may consent to his being dealt with.

13. The provisions of paragraph 12 of this Annex shall not apply to offences committed after the return of a person under this Annex or matters arising in relation to such offences, or when the person having had the opportunity to leave the territory of the requesting State has not done so within sixty days of his final discharge, or has returned to that territory after having left it.

14. If extradition of the same person, whether for the same offence or for different offences, is requested by two States Parties, or by a State and a third State with which the requested State has an extradition arrangement, the requested State shall determine to which State the person shall be extradited.

15. When a request for extradition is granted, the requested State shall, upon request and as far as its law allows, hand over to the requesting State articles which may serve as proof for evidence of the offence. If the articles in question are liable to seizure or confiscation in the territory of the requested State, the latter may, in connection with pending proceedings, temporarily retain them or hand them over on condition that they are returned. This provision shall not prejudice the rights of the requested State or any person other than the person sought. When these rights exist, the articles shall on request be returned to the requested State without charge as soon as possible after the end of the proceedings.

16. Reasons shall be given for any refusal of extradition.

17. If criminal proceedings against the person sought are instituted in the territory of the requested State, or the person is lawfully detained in consequence of criminal proceedings, the decision whether or not to extradite the person may be postponed until the criminal proceedings have been completed or he or she is no longer detained.

18. The ordinary costs of executing a request shall be borne by the requested State, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

19. The States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this Annex.

Annex III

Written amendments and proposals submitted by delegates in connection with the elaboration of a draft comprehensive convention on international terrorism

	Country	*Symbol*	*Subject*
1.	Guatemala	A/C.6/55/WG.1/CRP.1/Rev.1	Additional article provisionally numbered 22 (a)
2.	Costa Rica	A/C.6/55/WG.1/CRP.2	New preambular paragraph
3.	Costa Rica	A/C.6/55/WG.1/CRP.3	Article 7
4.	Colombia	A/C.6/55/WG.1/CRP.4/Rev.1	Article 2, paragraph 1
5.	Australia and Belgium	A/C.6/55/WG.1/CRP.5	Article 2, paragraph 1
6.	Belgium	A/C.6/55/WG.1/CRP.6	Article 7
7.	Netherlands	A/C.6/55/WG.1/CRP.7	New paragraph 4 to article 2
8.	India	A/C.6/55/WG.1/CRP.8	Revised texts of articles 1, 3, 6 and 11
9.	Ukraine	A/C.6/55/WG.1/CRP.9	Article 1, paragraph 3
10.	Germany	A/C.6/55/WG.1/CRP.10	Article 8, chapeau and lit. (a)
11.	Austria, Belgium and Switzerland	A/C.6/55/WG.1/CRP.11	Article 14
12.	Angola	A/C.6/55/WG.1/CRP.12/Rev.1	Article 8
13.	Lebanon	A/C.6/55/WG.1/CRP.13	Article 2
14.	Germany	A/C.6/55/WG.1/CRP.14	Article 3
15.	Bolivia, Chile, Costa Rica, Ecuador and Peru	A/C.6/55/WG.1/CRP.15	Article 2
16.	United Kingdom of Great Britain and Northern Ireland	A/C.6/55/WG.1/CRP.16	New article
17.	India	A/C.6/55/WG.1/CRP.17	Revised text of article 8
18.	Sudan	A/C.6/55/WG.1/CRP.18	Articles 2 and 3
19.	Syrian Arab Republic	A/C.6/55/WG.1/CRP.19	Article 6, paragraph 2 (d) (A/C.6/55/WG.1/CRP.8)
20.	Lebanon	A/C.6/55/WG.1/CRP.20	Article 6, paragraph 2 (A/C.6/55/WG.1/CRP.8)
21.	Cameroon	A/C.6/55/WG.1/CRP.21	Article 11, paragraph 1

	Country	Symbol	Subject
22.	Sri Lanka and Turkey	A/C.6/55/WG.1/CRP.22 and Corr.1	Article 7
23.	Draft report of the Working Group	A/C.6/55/WG.1/CRP.23 and Add.1-3	
24.	Syrian Arab Republic	A/C.6/55/WG.1/CRP.24	Article 11, paragraph 2 (A/C.6/55/WG.1/CRP.8)
25.	Cameroon	A/C.6/55/WG.1/CRP.25	Article 6, paragraph 2 (A/C.6/55/WG.1/CRP.8)
26.	Côte d'Ivoire	A/C.6/55/WG.1/CRP.26	Article 1
27.	Switzerland	A/C.6/55/WG.1/CRP.27	New preambular paragraph
28.	New Zealand and Switzerland	A/C.6/55/WG.1/CRP.28	Article 18, paragraph 2
29.	Switzerland	A/C.6/55/WG.1/CRP.29	Article 7
30.	Malaysia on behalf of the OIC Group	A/C.6/55/WG.1/CRP.30	Articles 1 and 2
31.	Switzerland	A/C.6/55/WG.1/CRP.31	Article 2, paragraph 1
32.	Austria	A/C.6/55/WG.1/CRP.32	Article 2, paragraph 1
33.	Nigeria	A/C.6/55/WG.1/CRP.33	Article 2, paragraph 1
34.	Angola	A/C.6/55/WG.1/CRP.34	Article 1
35.	India	A/C.6/55/WG.1/CRP.35	Article 2
36.	Qatar	A/C.6/55/WG.1/CRP.36	Article 18
37.	Lebanon and Syrian Arab Republic	A/C.6/55/WG.1/CRP.37	New preambular paragraphs
38.	Lebanon and Syrian Arab Republic	A/C.6/55/WG.1/CRP.38	Articles 1 and 18

1. Proposal submitted by Guatemala (A/C.6/55/WG.1/CRP.1/Rev.1)

Additional article provisionally numbered 22 (a)

As between States Parties to the present Convention and any one of the treaties enumerated in the preamble of the former, that treaty and the present Convention shall, with respect to any act of terrorism covered by both, be applied in a cumulative manner; provided, however, that, should any incompatibility exist between the two, the present Convention shall prevail and that cumulative application is not mandatory insofar as the sanctioning of individual offences is concerned.

2. Proposal submitted by Costa Rica (A/C.6/55/WG.1/CRP.2)

New preambular paragraph

Noting that the Convention relating to the Status of Refugees, done at Geneva on 28 July 1951, does not provide a basis for the protection of perpetrators of terrorist acts, noting in this context articles 1 (F), 2, 32 and 33 of that Convention, and stressing the importance of the full compliance with the obligations embodied in that Convention including, in particular, the principle of non-refoulement,[1]

3. Proposal submitted by Costa Rica (A/C.6/55/WG.1/CRP.3)

Article 7

In the context of international cooperation and coordination to combat the commission of the offences set forth in article 2, States Parties shall take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status for the purpose of ensuring that the asylum-seeker has not committed any of the offences set forth in article 2, considering in this regard relevant information as to whether the asylum-seeker is subject to investigation for, is charged with or has been convicted of any of the offences set forth in article 2.[2]

4. Proposal submitted by Colombia (A/C.6/55/WG.1/CRP.4/Rev.1)

Article 2, paragraph 1

1. Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally, does an act to cause:

(a) Death or serious bodily injury to any person; or

(b) Serious damage of any kind, including major economic loss, to or against a place of public use, a State or government facility, a public transportation system or an infrastructure facility, when the purpose of such act, by its nature or context, is

[1] Based on preambular paragraphs 6 and 7 of the annex to General Assembly resolution 51/210 of 17 December 1996.

[2] Based on paragraph 3 of the annex to General Assembly resolution 51/210 of 17 December 1996 and paragraph 4 of Security Council resolution 1269 (1999) of 19 October 1999.

to intimidate a population or to compel a Government or an international organization to do or to abstain from doing any act.

5. Proposal submitted by Australia and Belgium (A/C.6/55/WG.1/CRP.5)

Article 2, paragraph 1

1. Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally, causes:

(a) Death or serious bodily injury to any person;

(b) Extensive destruction of a State or government facility, a place of public use, a public transportation system or an infrastructure facility where such destruction results in or is likely to result in major economic loss;

...

6. Proposal submitted by Belgium (A/C.6/55/WG.1/CRP.6)

Article 7

Delete the article completely.

7. Proposal submitted by the Netherlands (A/C.6/55/WG.1/CRP.7)

New paragraph 4 to article 2

The provisions of this Convention do not apply if the act described in paragraph 1 constitutes an offence within the scope of a previous or future more specific convention relating to acts of terrorism.

8. Proposal submitted by India (A/C.6/55/WG.1/CRP.8)

Revised texts of articles 1, 3, 6 and 11

Article 1

For the purposes of this Convention:

1. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security, and persons acting in support of those armed forces who are under their formal command, control and responsibility.

3. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewerage, energy, fuel, banking, communications, telecommunications and information networks.

4. "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

5. "Public transportation system" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender **and the victims are** nationals of that State, the alleged is found in the territory of that State and no other State has a basis under Article 6, paragraph 1, or Article 6, paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles **8 and 12-16** shall, as appropriate, apply in those cases.

Article 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 2 when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State or by a person who has his or her habitual residence in the territory of that State;

2. A State may also establish its jurisdiction over any such offence when it is committed:

(a) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(a bis) The offence is committed wholly or partially outside its territory, if the effects of the conduct or its intended effects constitute or result, within its territory, in the commission of an offence referred to in Article 2; or

(b) The offence is committed against a national of that State; or

(c) The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(d) The offence is committed in an attempt to compel that State to do or to abstain from doing any act; or

(e) The offence is committed on board an aircraft which is operated by the Government of that State.

2 bis. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established under its domestic law in accordance with paragraph 2 of the present Article. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

3. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences referred to in Article 2 in cases where the alleged offender is present in its territory and where it does not extradite such a person to any of the States Parties that have established their jurisdiction in accordance with paragraph 1 or 2.

4. When more than one State Party claims jurisdiction over the offences set forth in Article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

5. **Without prejudice to the norms of general international law,** this Convention does not exclude any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 11

1. The State Party in whose territory the alleged offender is **present** shall, if it does not extradite the person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case, **without undue delay,** to its competent authorities for the purpose of prosecution through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

9. Proposal submitted by Ukraine (A/C.6/55/WG.1/CRP.9)

Article 1, paragraph 3

3. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewerage, energy, fuel or communications, and banking services, telecommunication and computer systems.

10. Proposal submitted by Germany (A/C.6/55/WG.1/CRP.10)

Article 8, chapeau and lit. (a)

States parties shall cooperate in the prevention of the offences set forth in article 2, particularly:

(a) By taking all practicable measures, including, if necessary and where appropriate, adapting their domestic legislation to prevent and counter preparations in their respective territories and areas under their jurisdiction for the commission, within or outside their territories or areas under their jurisdiction, of offences set forth in article 2. Such measures include:

(i) Measures to prohibit the establishment and operation of installations and training camps for the commission of offences set forth in article 2;

(ii) Measures to prohibit the illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the commission of offences set forth in article 2.

11. Proposal submitted by Austria, Belgium and Switzerland (A/C.6/55/WG.1/CRP.11)

Article 14

1. Subject to the provisions of paragraph 2, none of the offences referred to in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

2. Under exceptional circumstances and after having taken into due consideration any particularly serious aspects of the offence, including:

(a) That it created a collective danger to life or physical integrity; or

(b) That it affected persons foreign to the motives behind it; or

(c) That cruel or vicious means have been used in the commission of the offence;

a State Party may refuse extradition or mutual legal assistance in respect of any offence referred to in article 2 which it considers as a political offence or as an offence connected with a political offence or as an offence inspired by political motives.

12. Proposal submitted by Angola (A/C.6/55/WG.1/CRP.12/Rev.1)

Article 8

4. The States Parties undertake to take measures to prevent and not permit to be financed or assisted in any way in their territory the commission of an offence in the

territory of other States Parties to this Convention, taking into account the principles and respecting the sovereignty and independence of States in accordance with international law.

5. The mechanism provided for in paragraphs 2 and 3 of this article shall also apply to paragraph 4.

13. Proposal submitted by Lebanon (A/C.6/55/WG.1/CRP.13)

Article 2

Add new paragraph 4 as follows:

In the application of this Convention, none of the terrorist offences indicated in annex I shall be regarded as a political offence.

14. Proposal submitted by Germany (A/C.6/55/WG.1/CRP.14)

Article 3

This Convention shall not apply where the offences set forth in article 2 are committed within a single State, the alleged offenders and the victims are nationals of that State, the alleged offenders are present in the territory ...

15. Proposal submitted by Bolivia, Chile, Costa Rica, Ecuador and Peru (A/C.6/55/WG.1/CRP.15)

Article 2

1. Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally:

(a) Causes death or serious bodily injury to any person;

(b) Seizes or detains and threatens to kill, to cause serious bodily injury or to continue to detain any person;

(c) Causes serious damage of any kind, including major economic loss to, or against a place of public use, a State or governmental facility, a public transportation system, an infrastructure facility or the environment;

(d) Seizes, exercises control over or endangers a ship, an aircraft or a fixed platform located on the Continental Shelf,

when the purpose of such act, by its nature or context, is to intimidate a population or to compel a Government or an international organization to do or to abstain from doing any act.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.[3]

[3] Taken from article 2, paragraph 4, of the International Convention for the Suppression of the Financing of Terrorism (General Assembly resolution 54/109, annex).

3. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 2 of this article;

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 2 of this article;

(c) Contributes to the commission of one or more offences as set forth in paragraph 1 or 2 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or

(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.[4]

16. Proposal submitted by the United Kingdom of Great Britain and Northern Ireland (A/C.6/55/WG.1/CRP.16)

New article

1. The provisions of this Convention shall not affect the rights and obligations of States Parties under treaties adopted before this Convention.

2. States Parties are not precluded from adopting treaties which confirm, supplement, extend or amplify the provisions of this Convention.

17. Proposal submitted by India (A/C.6/55/WG.1/CRP.17)

Revised text of article 8

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 by taking all practicable measures, including, if necessary **and where appropriate**, adapting their domestic legislation, to prevent and counter preparations in their respective territories **and areas under their jurisdiction** for the commission, by whomsoever and in whatever manner, of those offences within or outside their territories **and areas under their jurisdiction**, including:

(i) Measures to prohibit the establishment and operation of installations and training camps for the commission of offences set forth in article 2; and

(ii) Measures to prohibit the illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the commission of offences set forth in article 2.

[4] Taken from article 2, paragraph 5, of the International Convention for the Suppression of the Financing of Terrorism.

2. **States Parties shall further cooperate in the prevention of the offences set forth in article 2** by exchanging accurate and verified information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences as **set forth** in article 2, in particular by:

(a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

(b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

(i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;

(ii) The movement of funds relating to the commission of such offences.

3. States Parties may exchange information through the International Criminal Police Organization (Interpol).

18. Proposal submitted by Sudan (A/C.6/55/WG.1/CRP.18)

Article 2

Amend paragraph 3 (b) as follows:

"Aids, abets, finances, facilitates ..." etc.

Article 3

Amend as follows:

"Save as provided for in article 2, paragraph 3, this Convention ..." etc.

N.B.

(a) The relation between article 2, paragraph 3, and article 3 necessitated making reference to the former in the context of the discussion of the latter.

(b) Though financing can be traced as an element in organizing, directing, instigating, aiding, abetting and facilitating, it is nevertheless evident that **financing** is too important not to be expressly mentioned. Despite the fact that all these notions of organizing, directing ... etc., were provided for in anti-terrorist conventions, financing was the subject of an entirely separate convention. A comprehensive convention must include it as well.

19. Proposal submitted by the Syrian Arab Republic (A/C.6/55/WG.1/CRP.19)

Amendment to article 6, paragraph 2 (d), as contained in document A/C.6/55/WG.1/CRP.8

(d) The offence is committed to terrorize, coerce the population of that State or to take revenge on that population, or to compel that State to do or to abstain from doing any act; or

20. Proposal submitted by Lebanon (A/C.6/55/WG.1/CRP.20)

Amendment to article 6, paragraph 2, as contained in document A/C.6/55/WG.1/CRP.8

(b) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a national of that State; or

(c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including an embassy ...

(d) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or to abstain from doing any act; or

21. Proposal submitted by Cameroon (A/C.6/55/WG.1/CRP.21)

Article 11, paragraph 1

1. If the State Party in whose territory the alleged offender is present fails to act on a formal extradition request, the competent judicial authorities of that State shall be obliged to prosecute without delay through proceedings in accordance with its laws. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

22. Proposal submitted by Sri Lanka and Turkey (A/C.6/55/WG.1/CRP.22/Corr.1)

Document A/C.6/55/WG.1/CRP.22 is hereby withdrawn.

23. Draft report of the Working Group (A/C.6/55/WG.1/CRP.23 and Add.1-3)

...

24. Proposal submitted by the Syrian Arab Republic (A/C.6/55/WG.1/CRP.24)

Amendment to Article 11, paragraph 2, as contained in document A/C.6/55/WG.1/CRP.8

Each State Party in whose territory the perpetrator of a crime set forth in Article 2 of the present convention or the alleged offender is present shall, in accordance with the norms of international law and its own laws, when convinced that justifying circumstances exist, take that person into custody and take penal measures against him for the purpose of prosecution, without undue delay and without exception whatsoever and whether or not the offence was committed in its territory, and shall take other measures to ensure his presence for the duration of the period necessary for prosecution or for extradition in case it decides not to prosecute.

25. Proposal submitted by Cameroon (A/C.6/55/WG.1/CRP.25)

Amendment to Article 6, paragraph 2, as proposed in document A/C.6/55/WG.1/CRP.8

(a) Outside its territory by a stateless person who has his or her habitual residence in the territory of that State; or

26. Proposal submitted by Côte d'Ivoire (A/C.6/55/WG.1/CRP.26)

Article 1

Insert the following text before paragraph 1:

"Terrorism means any act or omission, whoever the author or authors, that is intended to inflict terror upon one or more natural or legal persons, with a view to coercing such person or persons, in particular the Government authorities of a State or an international organization, to take or to refrain from taking some action."

27. Proposal submitted by Switzerland (A/C.6/55/WG.1/CRP.27)

In the preamble, insert the following new paragraph before the penultimate paragraph:

Bearing in mind the necessity to respect international humanitarian law and human rights in the fight against terrorism,

28. Proposal submitted by New Zealand and Switzerland (A/C.6/55/WG.1/CRP.28)

Article 18, paragraph 2[5]

The activities of armed forces during an armed conflict, as those terms are understood under international **humanitarian** law, which are governed by that law, are not governed by this Convention, and the activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are **in conformity with** international law, are not governed by this Convention.

29. Proposal submitted by Switzerland (A/C.6/55/WG.1/CRP.29)

Article 7

States Parties shall take appropriate measures, in conformity with the relevant provisions of national and international human rights law, in particular the 1951 Convention relating to the Status of Refugees, for the purpose of ensuring that asylum is not granted to any person in respect of whom there are reasonable grounds indicating his or her involvement in any offence referred to in article 2.

30. Proposal submitted by Malaysia on behalf of the OIC Group (A/C.6/55/WG.1/CRP.30)

Additional paragraphs to articles 1 and 2, as contained in document A/C.6/55/1

Article 1

Insert the texts of paragraphs 2 and 3 of article 1 of the Convention of the Organization of the Islamic Conference on Combating International Terrorism (see A/54/637-S/1999/1204, annex), which read as follows:

> "Terrorism" means any act of violence or threat thereof notwithstanding its motives or intentions perpetrated to carry out an individual or collective criminal plan with the aim of terrorizing people or threatening to harm them or imperilling their lives, honour, freedoms, security or rights or exposing the environment or any facility or public or private property to hazards or occupying or seizing them, or endangering a national resource, or international facilities, or threatening the stability, territorial integrity, political unity or sovereignty of independent States.
>
> "Terrorist crime" means any crime executed, started or participated in to realize a terrorist objective in any of the Contracting States or against its nationals, assets or interests or foreign facilities and nationals residing in its territory punishable by its internal law.

Article 2

Add a new paragraph to article 2, containing the text of paragraph (a) of article 2 of the above-mentioned Convention, which reads as follows:

[5] Proposed amendments appear in bold face.

Peoples' struggle including armed struggle against foreign occupation, aggression, colonialism, and hegemony, aimed at liberation and self-determination in accordance with the principles of international law shall not be considered a terrorist crime.

31. Proposal submitted by Switzerland (A/C.6/55/WG.1/CRP.31)

Amendment to article 2, paragraph 1

Unless an act is covered by a Convention listed in the preamble, any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally causes:

...

32. Proposal submitted by Austria (A/C.6/55/WG.1/CRP.32)

Article 2, paragraph 1

1. Any person commits an offence within the meaning of this Convention if that person, by any means, does an act and thereby, unlawfully and intentionally, causes:

(a) Death or serious bodily injury to any person; or

(b) Extensive destruction to a place of public use, a State or government facility, a public transportation system or an infrastructure facility, where such destruction results or is likely to result in major economic loss,

when the purpose of such act, by its nature or context, is to intimidate a population or to compel a Government or an international organization to do or abstain from doing any act.

33. Proposal submitted by Nigeria (A/C.6/55/WG.1/CRP.33)

Amendment to article 2, paragraph 1 (as contained in the non-paper submitted by India, dated 2 October 2000)

Paragraph 1 bis

Any person also commits an offence, within the meaning of this Convention, if that person commits or attempts to commit an offence as set forth in any of the sectoral or specific conventions on international terrorism.

...

34. Proposal submitted by Angola (A/C.6/55/WG.1/CRP.34)

Article 1

6. "Private facility" means any facility, immovable property or conveyance not belonging to the State and which is registered under individual or collective private ownership, whether or not it is used in public service or for public service.

35. Revised text prepared by India[6] (A/C.6/55/WG.1/CRP.35)

Article 2

1. Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally **causes**:

(a) Death or serious bodily injury to any person; or

(b) **Extensive destruction to a place of public use**, a State or Government facility, a public transportation system, or **an** infrastructure facility, or where such destruction results or is likely to result in major economic loss,

when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or abstain from doing any act.

2. Any person also commits an offence if that person threatens to commit an offence as set forth in paragraph 1 of this article.

3. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

4. Any person also commits an offence if that person:

(a) **Participates as an accomplice in an offence as set forth in paragraphs 1, 2 or 3 of this article;**

(b) Organizes, directs or instigates others to commit an offence as set forth in paragraphs 1, 2 **or 3** of this article; or

(c) Aids, abets, facilitates or counsels the commission of such an offence; or

(d) Contributes to the commission of one or more offences as set forth in paragraphs 1, 2 **or 3** of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or

(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

36. Proposal submitted by Qatar (A/C.6/55/WG.1/CRP.36)

Article 18

1. Nothing in this Convention shall effect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations and international humanitarian law.

[6] The text is of an informal and preliminary nature and does not constitute a formal proposal by India.

2. The legitimate activities of armed forces during an armed conflict, as those terms provided by international humanitarian law, are not governed by this Convention.

3. The provisions of paragraph 2 of the present article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.

37. Proposal submitted by Lebanon and the Syrian Arab Republic (A/C.6/55/WG.1/CRP.37)

New preambular paragraphs

Guided by the purposes and principles of the Charter of the United Nations,

Recalling all relevant General Assembly resolutions, including resolution 46/51 of 9 December 1991,

Recalling also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations contained in General Assembly resolution 50/6 of 24 October 1995,

38. Proposal submitted by Lebanon and the Syrian Arab Republic (A/C.6/55/WG.1/CRP.38)

Article 1

Delete paragraph 2 (definition of the "Military forces of a State").

Add the definition of "Terrorism" and "Terrorist crime" as contained in the Convention of the Organization of the Islamic Conference and as it appears in CRP.30.

Article 18

Delete the second part of paragraph 2.

Annex IV

Informal summary of the general discussion in the Working Group, prepared by the Chairman

1. At its 1st meeting, held on 25 September, the Working Group held an exchange of general views on issues within the mandate of the Ad Hoc Committee, pursuant to paragraphs 12 and 13 of General Assembly resolution 54/110 of 9 December 1999.

2. All delegations stressed their unequivocal condemnation of terrorism in all its forms and manifestations. Some delegations placed particular emphasis on Security Council resolution 1269 (1999). Some noted the special importance attached at the Millennium Summit to the problem of terrorism as a serious threat to international peace and security and to the stability of States. It was also emphasized that terrorism posed a serious threat to human rights, affecting the right to life and other freedoms of the individual. The need to strengthen international cooperation in combating this scourge was highlighted. Such international cooperation should be in conformity with the principles of the Charter of the United Nations, international law and the relevant conventions. Some delegations stressed the need to elaborate the definition of terrorism and underscored the distinction between terrorism and the legitimate struggle for national liberation, self-determination and independence of all peoples under colonial and other forms of alien domination and foreign occupation. It was also highlighted that State terrorism was the most dangerous form of terrorism.

3. The importance of the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism, as effective instruments to counter international terrorism, was emphasized. States were urged to take the appropriate steps with a view to becoming parties to those conventions so as to strengthen the effectiveness of the international legal regime against terrorism. The hope was expressed that both conventions would receive the required number of ratifications and enter into force in the near future.

A. Elaboration of the draft international convention for the suppression of acts of nuclear terrorism

4. Support was expressed for the finalization of a consensus text of the draft international convention for the suppression of acts of nuclear terrorism. Several speakers commended the efforts of the coordinator in seeking an acceptable compromise on the remaining issues concerning the scope of the draft convention.

5. Concern was voiced by some delegations, however, about the lack of progress in the finalization of the instrument. The hope was expressed that agreement would be reached by means of a continued exchange of positive and constructive views and that the draft convention would be concluded in the near future so as to supplement the existing conventions. The point was also made that the draft convention should not address issues relating to disarmament that were better dealt with in other forums.

6. Others remained convinced that the specific character of the subject matter of the draft convention did not permit the exclusion of armed forces from its scope and reiterated their position that draft article 4 should be deleted. The view was expressed that the scope of the proposed convention should cover acts of State terrorism. The view was also expressed that the scope should cover the unlawful use of radioactive materials, including the dumping of radioactive wastes, resulting in serious damage to the environment. These delegations reaffirmed their support for the position of the Movement of Non-Aligned Countries on the scope of the draft convention. While stressing their willingness to continue to work with the coordinator of the informal consultations, they stated that the concerns of the States members of the Movement of Non-Aligned Countries on the draft convention, which had been reiterated on many occasions in the past, still remained.

B. Question of convening a high-level conference

7. Some delegations supported the proposal to convene a high-level conference on terrorism to formulate a joint, organized response of the international community to terrorism, characterizing it as a valuable and useful initiative. It was felt that the success of this endeavour depended to some extent on the delineation of the objectives and modalities of the proposed conference.

8. It was also suggested that the conference should elaborate a comprehensive definition of terrorism based on a clear distinction between terrorism and the legitimate struggle of peoples against alien domination and foreign occupation.

C. Elaboration of the draft comprehensive convention on international terrorism

9. At the 1st meeting of the Working Group, held on 25 September 2000, the sponsor delegation, India, introduced the draft comprehensive convention on international terrorism (A/C.6/55/1) and noted that the draft text was based on the initial proposal presented by India to the General Assembly at its fifty-first session in 1996 (A/C.6/51/6), which had subsequently been revised in the light of the adoption of the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism and comments and suggestions received from delegations. Reference was made to several of the key provisions, including articles 2 (scope of the draft convention), 5 (non-justification clause), 6 (jurisdictional clause), 7 (limitation on the granting of asylum), 8 (obligation to cooperate in the prevention of terrorist acts) and 11 (extradite-or-prosecute principle), as well as to the proposed annexes to the draft convention containing, inter alia, optional procedures in relation to extradition and mutual legal assistance. It was observed that the proposed draft convention had received the support of the Movement of Non-Aligned Countries, as well as that of the Group of Eight Ministers for Foreign Affairs, at their meeting held at Miyazaki, Japan, in July 2000.

10. The view was expressed in the Working Group that the draft text before it was a good basis for discussion and that an article-by-article consideration was timely. Furthermore, it was stated that a comprehensive convention would be a valuable contribution to, and a useful tool in, the struggle against terrorism. It was also

suggested that the provisions and approach of several anti-terrorism instruments developed at the regional level, aimed at strengthening cooperation among States, should be taken into consideration by the Working Group in finalizing the provisions of the draft convention.

11. A clarification was sought as regards the scope of the draft convention and its relationship to existing treaties regulating aspects of international terrorism. Different views were expressed as to whether the draft should add to the existing sectoral terrorism conventions or whether it should be more of an "umbrella" convention. It was observed that care had to be exercised to ensure that the new convention did not adversely affect the existing legal framework, or separate initiatives being undertaken in related fields. As such, a preference was expressed for a treaty that would close any gaps in the existing legal framework, while preserving past achievements. Others maintained that the comprehensive convention should reinforce, complement and complete the existing legal framework, and therefore would necessarily overlap with existing treaties. It was therefore proposed that a provision should be included in the draft convention clarifying its relationship to existing treaties. The absence of such a provision, it was observed, would create uncertainty as to whether article 30 of the Vienna Convention on the Law of Treaties would apply, as there was room for disagreement on whether the draft convention and any of the existing treaties constituted "treaties relating to the same subject matter".

12. The point was made that the comprehensive approach raised the issue of the definition of terrorism. Failure to address that important issue in the draft comprehensive convention would bring into question the necessity and utility of the exercise. In particular, it was proposed that provision should be made for the recognition of the existence of State terrorism. It was also suggested that the draft comprehensive convention should unequivocally draw a distinction between terrorism and the legitimate struggle of peoples in the exercise of the right to self-determination as well as the right of self-defence against aggression and occupation. The point was also made that the term "terrorism" was inapplicable to the conduct of States, which was governed by other rules, namely those relating to the use of force, for example, Article 2, paragraph 4, and Article 39 of the Charter of the United Nations.

13. The Working Group subsequently undertook, at its 3rd to 7th meetings, held from 26 to 28 September, the first reading of the draft convention (except for the final clauses and article 23 relating to dispute resolution),[1] including the preamble. Further consideration of the draft articles continued in the context of informal consultations on the basis of oral and written submissions (see annex III to the present report).

14. The coordinators of the informal consultations presented oral reports to the Working Group at its 8th meeting, held on 5 October 2000. Concerning the offences provision, that is, article 2, discussion had been undertaken on the basis of a non-paper, dated 2 October 2000, prepared by the sponsor delegation (subsequently issued as A/C.6/55/WG.1/CRP.35), together with several written proposals (A/C.6/55/WG.1/CRP.4/Rev.1, A/C.6/55/WG.1/CRP.5, 13, 15, 18, 30 and 32). It was observed that the discussion had focused primarily on paragraph 1, and that the debate had only been preliminary in nature. It was therefore not possible to draw any concrete conclusions. Further reference was made to an oral proposal relating to

the issue of the relationship between the draft convention and the previous conventions, which had elicited many comments and which would have to be considered in the context of the relationship issue. It was also reported that views had been divided on the reference to "causes" in the chapeau of paragraph 1, which had replaced the phrase "does an act intended to cause" in the original version. Owing to time constraints a number of issues were not discussed in detail and consideration of article 2 will need to be continued at the next session.

15. Regarding article 3, it was observed that the discussions, which had proceeded on the basis of a revised draft prepared by India (A/C.6/55/WG.1/CRP.8), had focused largely on drafting suggestions to accommodate the concerns of delegations. Reference was made to a subsequent proposal (A/C.6/55/WG.1/CRP.14), which was aimed at addressing those concerns. It was also noted that there was general support for the inclusion of the reference to victims. The key outstanding issue was the cross-references to other articles at the end of the provision, which would have to be further considered once the content of the relevant articles was known.

16. Article 6 was also considered on the basis of the revised proposal of the sponsor delegation (A/C.6/55/WG.1/CRP.8). It was reported that agreement had been reached on the major part of the text. It was further observed that a general preference had been expressed for not including a reference to "habitual residence" in paragraph 1 (c); that, despite some concerns, paragraph 2 (a bis) did not create many problems since it was optional for States; and that general support existed for paragraphs 2 bis, 3, 4 and 5, which were based on existing precedents. The only remaining parts of article 6 to be considered were subparagraphs (b), (c) and (d) of paragraph 2, for which two proposals had been submitted in writing (A/C.6/55/WG.1/CRP.19 and CRP.20). It was suggested that those remaining issues should be considered at the next session of the Ad Hoc Committee.

17. Article 8 had been considered on the basis of a revised text prepared by the sponsor delegation (A/C.6/55/WG.1/CRP.17). As regards paragraph 1, it was reported that various views had been expressed on the new phrase "and areas under their jurisdiction"; that a proposal to delete the words "by whomsoever and in whatever manner" had received support, and that several views had been expressed with regard to subparagraphs (i) and (ii). In connection with paragraph 2, while the revised text had received support, some doubts had been expressed about subparagraph (ii) of paragraph 2 (b) since it seemed to be more suited to the International Convention on the Suppression of the Financing of Terrorism. With regard to the alternative proposal contained in document A/C.6/55/WG.1/CRP.12/Rev.1, it was stated that while strong doubts had been expressed in the light of article 20, the proposal had received some support.

18. With regard to article 11, which had been considered on the basis of the revised text prepared by the delegation of India (A/C.6/55/WG.1/CRP.8), it was reported that no objections had been raised to the replacement of the original phrase "is found" with "is present". Support had also been expressed for the new phrase "without undue delay", although it was queried as being too vague and its legal value questionable. It was further observed that support had been expressed for the inclusion of the phrase "in cases to which article 6 applies" in the first line after the word "shall" or at the beginning of the paragraph. Nevertheless, it was noted that the view had also been expressed that the addition was not appropriate because it omitted cases where article 6 did not apply. Furthermore, general support had been

expressed for replacing the words "any ordinary offence" in the last line of paragraph 1 with "any other offence". Two alternative proposals relating to article 11, contained in documents A/C.6/55/WG.1/CRP.21 and 24, had also been considered. However, while many views had been expressed, only a preliminary debate had been possible, and it was therefore suggested that the consideration of the proposals should continue at a later stage.

19. On the question as to the relationship between the draft comprehensive convention on international terrorism and the earlier "sectoral" or "specific" conventions, it was observed that, generally speaking, three different concepts of the purpose of the draft convention had emerged: (a) that the draft convention should be truly comprehensive in nature, i.e. that it should be an "umbrella" convention covering all aspects of terrorism, including aspects already governed by existing conventions and areas not yet covered, and thereby superseding existing conventions; (b) that the draft convention should fill in the gaps in existing conventions, for example, by extending the ancillary offences and cooperation provisions found in the most recent conventions (such as the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism) to the earlier conventions as well; and (c) that the draft convention should provide a framework to cover existing and future activity not already covered in the existing conventions, thereby complementing the existing conventions by filling in the gaps with regard to offences not already defined in those conventions, including new types of offences that might be committed in the future. The view had also been expressed that the draft convention should be seen as a composite proposal to be examined on its own merit. It was, however, generally agreed that, while the discussion on the relationship issue had been inconclusive, the matter would need to be reconsidered once key draft articles, such as article 2, had been finalized; and that a provision that would govern the relationship issue should be included in the final text.

Notes

[1] Draft article 21 was withdrawn by the sponsor delegation.